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HIGHLY ERODIBLE LAND CONSERVATION ACT OF 1983

NOVEMBER 2 (legislative day, OCTOBER, 31, 1983.—Ordered to be printed

Mr. HELMS, from the Committee on Agriculture, Nutrition, and Forestry submitted the following

REPORT

[To accompany S. 663]

The Committee on Agriculture, Nutrition, and Forestry, to which was referred the bill (S. 663) to prohibit the payment of certain agriculture incentives to persons who produce certain agricultural commodities on highly erodible land, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

SHORT EXPLANATION

S. 663 makes any person who produces an agricultural commodity on highly erodible land ineligible (as to all of that commodity produced by such person during that crop year) for Federal price support, income assistance, or production adjustment payments; Commodity Credit Corporation storage facility loans; Federal crop insurance; disaster payments; or new Farmers Home Administration loans, if the Secretary of Agriculture determines that the loan proceeds will contribute to excessive erosion of highly erodible land. The bill would not apply to any highly erodible land that was cultivated during any of the 1973 through 1983 crop years; to any crop produced on highly erodible land using an approved conservation system; to any crop planted before, or during any crop year beginning before, the bill's enactment; or to any Farmers Home Administration loan or Commodity Credit Corporation storage facility loan that was made prior to the bill's enactment. The bill also provides (1) that Agricultural Stabilization and Conservation county committees will be used in its administration, (2) that the Secretary shall establish an appeal procedure to review adverse

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land classifications, and (3) that the Secretary shall, as soon as possible, complete soil classification surveys on all unclassified lands.

Committee Amendments

The Committee amendment to the text of the bill strikes all after the enacting clause and inserts in lieu thereof an amendment in the nature of a substitute. The Committee amendment to the title of the bill is technical in nature.

Purpose and Need for Legislation

The purpose of S. 663, as reported by the Committee, is to discourage new cultivation of fragile lands that are unsuitable for intensive agricultural production without the application of proper conservation practices. This purpose will be met by limiting an agricultural producer's access to various price support, production adjustment, Federal crop insurance and other programs carried out by the Federal Government.

Under current law, an agricultural producer may participate in numerous Federal agricultural programs regardless of the suitability of the land used for the production of agricultural commodities. This policy is inappropriate in light of the increasingly serious soil erosion problem in the western United States.

In the Great Plains region of the United States, agricultural producers, many benefitting from federally sponsored programs, have been bringing marginal grasslands into cultivation. These lands have a very thin layer of topsoil. When this grassland is broken with a plow, the topsoil becomes vulnerable to wind and water erosion. After several years of intensive cultivation, the land is often eroded to the point of being barren. The lost topsoil takes many years to replace.

The Soil Conservation Service of the Department of Agriculture estimates that the average rate of erosion for all cultivated cropland in the United States is 5 tons per acre per year. This rate of erosion is generally recognized as an acceptable rate of erosion. However, the average rate of erosion on highly erodible land being brought into cultivation in the West ranges from 10 tons per acre per year to 30 tons per acre per year. The Committee believes that the Federal Government should not encourge, directly or indirectly, crop production on marginal lands not presently being cultivated, unless the production is carried out under a conservation plan that minimizes soil erosion.

DEFINITION OF HIGHLY ERODIBLE LAND

S. 663 defines highly erodible land as those lands classified as capability classes IVe, VIe, VII, and VIII, according to the land capability classification contained in Agriculture Handbook No. 210, published by the Soil Convservation Service of the Department of Agriculture. The land capability classification is composed of systems for grouping soils into capability classes.

The grouping of soils into land capability classes assists a producer in using and interpreting the information on a soil map or soil survey. The land capability class will identify for the producer the

location, amount, and general suitability of the soils for agricultural use.

The land capability classification uses various elements in defining capability classes IVe, VIe, VII, and VIII.

Soils in class IV have very severe limitations that restrict the choice of plants, require very careful management, or some combination of the two. When these soils are cultivated, careful management is required and conservation practices are more difficult to apply and maintain than soils in classes I, II, and III. Soils in class IV may be used for crops, pasture, woodland, range, or wildlife food and cover.

Soils in class IV may be well suited to only two or three of the common crops. Use for cultivated crops is limited as a result of the effects of one or more permanent features such as (1) steep slopes, (2) severe susceptibility to water or wind erosion, (3) severe effects of past erosion, (4) shallow soils, (5) low moisture-holding capacity, (6) frequent overflows accompanied by severe crop damage, (7) excessive wetness with continuing hazard of waterlogging after drainage, (8) severe salinity, or (9) moderately adverse climate.

In humid areas, many sloping soils in class IV are suited to occasional but not regular cultivation. Some of the poorly drained, nearly level soils in class IV are not subject to erosion but are poorly suited to cultivated crops because of low productivity and the time required for the soil to dry out in the spring. Some soils in class IV are well suited to one or more of the special crops, such as fruits, ornamental trees, and shrubs.

In subhumid and semiarid areas, soils in class IV may produce good yields of adapted cultivated crops during years of above average rainfall, low yields during years of average rainfall, and failures during years of below average rainfall. The soil must be protected during the low rainfall years, even though there can be little or no expectancy of a marketable crop. Special treatments and practices to prevent soil erosion, to conserve moisture, and to maintain soil productivity are required. Sometimes cover crops must be planted or emergency tillage used for the primary purpose of maintaining the soil during years of low rainfall.

Soils in class VI have severe limitations that make them generally unsuited to cultivation and limit their use largely to pasture or range, woodland, or wildlife food and cover.

The physical conditions of soils placed in class VI are such that it is practical to apply range or pasture improvements, if needed, such as seeding, liming, fertilizing, and water control through contour furrows, drainage ditches, diversions, or water spreaders. Soils in class VI have continuing limitations that cannot be corrected, such as (1) steep slope, (2) severe erosion hazard, (3) effects of past erosion, (4) stoniness, (5) shallow rooting zone, (6) excessive wetness or overflow, (7) low moisture capacity, (8) salinity, or (9) severe climate. Because of one or more of these limitations, these soils are not generally suited to cultivated crops, but they may be used for pasture, range, woodland, or wildlife cover, or for some combination of these uses.

Some soils in class VI can be safely used for common crops, provided unusually intensive management is used. Some of the soils in this class are also adapted to special crops such as sodded orchards,

blueberries, or the like, requiring soil conditions unlike those demanded by common crops. Depending upon soil features and local climate, the soils may be well or poorly suited to woodlands.

Not all land falling into capability classes IV and VI is unsuitable for cropping. Therefore, these classes are further defined in the bill by including subclass (e) in the definition. Subclass (e) (meaning erosion) is composed of soils where susceptibility to erosion is the dominant problem or hazard in their use. Erosion susceptibility and past erosion damage are the major factors for placing soils in this subclass.

Other subclasses which define limitations for agricultural use are excess water, soil limitations within the rooting zone and climatic limitation. These three subclasses are not used to further define capability class IV and VI.

Soils in class VII have very severe limitations that make them unsuited to cultivation and that restrict their use largely to grazing, woodland, or wildlife.

The physical condition of soils in class VII is such that it is impracticable to apply such pasture or range improvements as seeding, liming, fertilizing, and water control. The soil restrictions are more severe than those in class VI because of one or more continuing limitations that cannot be corrected, such as (1) very steep slopes, (2) erosion, (3) shallow soil, (4) stones, (5) wet soil, (6) salinity, (7) unfavorable climate, or (8) other limitations that make the soil unsuited to common cultivated crops. Under proper management, class VII soils can be used safely for grazing, woodland, or wildlife food and cover, or for some combination of these uses.

Depending upon the soil characteristics and local climate, soils in class VII may be well or poorly suited to woodland. They are not suited to any of the common cultivated crops; in unusual instances, some soils in this class may be used for special crops under unusual management practices. Some areas of class VII soil may need seeding or planting to protect the soil and to prevent damage to adjoining areas.

Soils and landforms in class VIII have limitations that preclude their use for commercial plant production and restrict their use to recreation, wildlife, or water supply or to esthetic purposes.

Soils and landforms in class VIII cannot be expected to return significant on-site benefits from management from crops, grasses, or trees, although benefits from wildlife use, watershed protection, or recreation may be possible.

Limitations that cannot be corrected may result from the effects of one or more of the following: (1) erosion or erosion hazard, (2) severe climate, (3) wet soil, (4) stones, (5) low moisture capacity, or (6) salinity.

Badlands, rock outcrop, sandy beaches, river wash, mine tailings, and other nearly barren lands are included in class VIII. It may be necessary to give protection and management to soils and landforms in class VIII, in order to protect other more valuable soils, to control water, to foster wildlife or for esthetic reasons.

The decision to classify land in a particular capability grouping is made by a field soil scientist. The criteria used to differentiate between land capability classes are soil types (arid, semiarid, stoney, wet, saline or overflow soils), climatic limitations, wetness

limitations, toxic salts, and the steepness, length, and shape of the slope of the land. Once a field soil scientist has made a determination using these criteria, soil scientists at State and national technical centers of the Soil Conservation Service review the classification to ensure that soil classifications are coordinated with and among States.

At the current time, the Department of Agriculture reports that 75 to 80 percent of the Nation's lands have been surveyed and classified according to the land capability classification system.

The Soil Conservation Service estimates that approximately 248 million uncultivated acres, generally grassland or forest land, are classified in classes IVe and VIe. These acres are located throughout the United States. However, the Northern Plains, Southern Plains, Mountain and Pacific regions, contain relatively more acres of these classes of land than the rest of the country.

Of the 248 million acres classified as IVe and VIe, the Soil Conservation Service estimates that approximately 18 million acres have high or medium potential for conversion from grassland or forest land to cropland. These lands have soils with physical, chemical, and climate characteristics that are generally unsuitable for cultivation, but could be cropped with proper management.

The remaining 230 million acres of class IVe and VIe land in grass or forest are considered by the Soil Conservation Service to have a low, or in some cases nearly zero, potential for conversion to cropland.

Land classified as VII or VIII has such severe physical or climatic limitations that conversion to cropland is unlikely in any significant amount. These types of land are properly included in the bill because these lands are not suited for conversion to cropland.

CULTIVATION OF HIGHLY ERODIBLE LAND

National data on the rate of conversion of grasslands to cropland are not available. However, the Soil Conservation Service has been monitoring this conversion in the States of South Dakota and Colorado. In South Dakota, during the 8 years from 1974 through 1982, the Soil Conservation Service estimates that over 600,000 acres of highly-erodible land were converted from grassland to cropland. In Colorado, the Soil Conservation Service estimates that approximately 500,000 acres of such land were plowed up from the spring of 1979 to the spring of 1982.

The Committee does not believe it is appropriate governmental policy to encourage the cultivation of marginal lands. Indeed, cultivation of such lands has been characterized by its critics as the beginning of a new dust bowl. Though the Committee does not intend to restrict or limit a person's right to use property in any manner, the Committee believes that Federal farm and agricultural loan programs should not be made available to persons who cultivate marginal lands without applying adequate conservation practices. Under the current system, the taxpayers have been paying twice; once for farm support programs and again for the costs of soil erosion. The purpose of S. 663 is to get the Federal Government out of the business of encouraging the cultivation of highly erodible land.

S. 663 will discourage the cultivation of highly erodible land by limiting an agricultural producer's access to price support, income assistance, production adjustment, disaster payment, Federal crop insurance, and agricultural loan programs carried out by the Federal Government. If an agricultural producer brings highly erodible land into cultivation, the commodity grown on the highly erodible land, as well as any more of that same commodity grown elsewhere by that producer, will not be eligible for the Federal farm and agricultural loan programs. The Committee emphasizes that this restriction in no way prohibits the production of any commodity on any land. Nor does the Committee intend for the bill to be considered a land use planning or cross-compliance measure. The sole purpose of the bill is to discourage the cultivation of erosion prone lands.

EXCEPTIONS

The bill will not affect a producer's participation in Federal farm programs and agricultural loan programs, even if erosion prone land is being cultivated, in several circumstances.

If land classified as capability class IVe, VIe, VII, or VIII has been cultivated to produce an agricultural commodity in any crop year from 1973 through 1983, it is exempted from the restrictions in the bill. S. 663 will affect only those erosion prone acreas that have not been cultivated during any of the past 11 years.

Any crop of an agricultural commodity planted before the bill is enacted, or planted in any crop year beginning before the bill is enacted, is also not affected by S. 663.

Since the underlying purpose of the bill is to prevent soil erosion, the bill does not apply to any crop of an agricultural commodity produced on highly erodible land using a conservation system that has been approved by a soil conservation district. Decisions approving or disapproving acceptable conservation systems will be made by local soil conservation districts, not by the Department of Agriculture. The bill includes language requiring that local decisions be based on Soil Conservation Service technical guides. These guides have been published and are specifically tailored to the conditions in each area. The Committee intends that the Soil Conservation Service's role in this process is publishing the technical guides and providing technical assistance.

An approved conservation system would specify suitable conservation practices for the cultivation of erosion prone land in a particular soil conservation district. The installation of terracing, strip cropping, or conservation tillage are examples of what might constitute an approved conservation system. However, in some instances, the approved conservation system for erosion prone land may not permit cultivation.

PROGRAM ADMINISTRATION

The Committee believes this legislation can be administered with existing Department of Agriculture staff. Administration of the legislation should, to the extent practicable, be carried out as an integral part of the administration of existing Department programs.

The Committee understands that agencies administering the various Federal farm and agricultural loan programs will accept producer self-certification, subject to the regular spot checking procedures presently in use by the agencies, in determining compliance under the bill. When a producer makes application to participate in one or more of the programs, the producer will be asked to certify whether the producer has or intends to crop any land not cultivated during the period 1973–1983.

If the producer indicates the producer is cropping, or intends to crop, land not cropped from 1973–1983, the producer would be asked to identify the land area involved. In the majority of cases, the Committee expects that the agencies responsible for the Federal programs will be able to identify the capability class of the land in question by using soil survey reports and maps previously prepared and published by the Soil Conservation Service.

If the agency for whose program the producer is applying determines the land in question is not class IVe, VIe, VII, or VIII, no further action would be required. If the land is in one or more of the above classes, the producer would be informed that, in order to qualify for the program, the producer would be required to use a conservation system approved by the local soil conservation district. The Committee understands that technical assistance and cost-sharing are available through existing Department of Agriculture programs to the producer who decides to use an approved conservation system. The Federal farm and agricultural loan programs would be available to those who use an approved conservation system. If the producer is unwilling to use an approved system, then the decision would be left to the producer whether to forgo producing agricultural commodities on the highly erodible land or to forgo the Department of Agriculture program benefits.

In some instances soil surveys will not be available for use in determing the proper land capability class. The agency involved would then request that the local Soil Conservation Service office determine the proper classification of the land in question. The Committee understands that, in many cases, the local Soil Conservation Service staff will be able to immediately determine the land capability class, using unpublished soil surveys, aerial photographs, and other information available to them. However, in some cases, a trained Soil Conservation Service representative may have to make a field visit in order to properly determine the land capability class. The Committee notes that Mr. Peter Myers, Chief of the Soil Conservation Service, in testimony before the Committee and in response to written questions, has made a commitment to place high priority on making such determinations. Mr. Myers has pledged that the Soil Conservation will not cause any undue delay in the administration of the bill.

The Committee has included in the bill a provision requiring the Secretary to develop procedures for responding to appeals which may be made with respect to the capability class of land.

The Committee has also included a provision authorizing the Secretary to determine, as outlined in regulations, the "predominant" land capability class of a particular field. It is not the Committee's intent that the cultivation of a piece of land that includes only a small portion of class IVe, VIe, VII, or VIII land be restricted

under the bill. The Committee expects the Secretary to use judgment in this matter so that small, insignificant areas of highly erodible land do not cause an entire field to be classed as highly erodible land. The Committee also points out that the use of the term "predominant" does not necessarily mean "more than half" for purposes of the bill.

COMMITTEE CONSIDERATION

HEARINGS

The Committee on Agriculture, Nutrition, and Forestry held a hearing on Tuesday, April 19, 1983, on S. 663, introduced by Senator William Armstrong and 31 cosponsors. The hearing was chaired by Senator Roger Jepsen.

Senator Armstrong, the sponsor of the legislation, testified that the bill was needed to get the Government out of the business of encouraging practices clearly not in the best interest of agriculture. He stated that America's topsoil is washing and blowing away at an unacceptable rate, and that, in 14 States, at least 5 million acres of fragile grasslands are in danger of being plowed and blown away unless Congress acts quickly to stop subsidizing the sodbusters. ers.

He further stated that the problem was most acute in the States of Colorado, Montana, Wyoming, South Dakota, Nebraska, Oklahoma, Texas, California, New Mexico, and Arizona and was less acute in Kansas, Oregon, Washington, Georgia, and Alabama.

Senator Armstrong pointed out that the bill would not dictate farming practices to producers or interfere with their planting decisions. He stated that the bill will simply say to farmers that if they want to plow up these grasslands, lands that are not normally plowed and that are highly erodible, they will do so at their own risk. These persons should not expect the taxpayers to bail them out when the land turns out not to be productive.

Mr. Peter C. Myers, Chief of the Soil Conservation Service (SCS) of the Department of Agriculture, and Mr. Everett Rank, Administrator of the Agricultural Stabilization and Conservation Service, testified for the Department of Agriculture in support of S. 663. Mr. Myers stated that the land capability classification systems, which are incorporated in the bill, have been in use for many years and can be easily applied at the "field" or local level. Additionally, he stated that the SCS would provide technical assistance to producers wishing to cultivate highly erodible land under an approved soil conservation system.

Mr. Rank pointed out that the bill will not prevent the plowing up of all erodible lands, but would get the Government out of the business of subsidizing erosion-prone practices.

Mr. Bruce Hawley of the American Farm Bureau Federation stated that the American Farm Bureau supported the introduced bill, but recommended two modifications. The first suggested modification was a clarification of the definition of the term "highly erodible land" to ensure that the bill focuses directly on grasslands. The second suggested modification would clarify the language in section 3, to make clear that the exemption from the ineligibility

provision applies to lands on which a commodity was planted during any of the 1973–82 crop years, not to just the commodity grown on the land.

Mr. John Stencel, President of the Rocky Mountain Farmers Union, quoted Department of Agriculture estimates that 4.7 million acres of highly erodible land in Colorado and 3.7 million acres of such land in Nebraska have been plowed. He further stated that unless legislation is passed, another 32 million acres of such land in those two States could be plowed in the next few years. He testified that the legislation would remove the Federal incentives for the breaking up of marginal grasslands. The Farmers Union endorsed the legislation as a strong step in the right direction to control absentee farm ownership and the plowing of marginal lands.

In response to questions from Senator Jepsen, Mr. Hawley and Mr. Stencel stated that they did not believe the bill was intended to be the first step toward implementing cross-compliance measures. Mr. Stencel stated that the program authorized by the bill should be administered uniformly throughout the country.

Mr. Ervin Mitchell of the National Association of Conservation Districts (NACD) testified that the NACD supports the bill. He further stated that the bill is not a cross-compliance measure because it does not require a farmer to comply with anything in order to qualify for farm programs. The bill merely says that a farmer can not be subsidized with public money for employing poor conservation practices.

Mr. Norman A. Berg, Washington representative of the Soil Conservation Society of America, stated that passage of S. 663 is necessary to spur the policy changes needed to solve the problems of soil erosion. He stated that he favored the bill, although it "grandfathers" in approximately 41 million acres of highly erodible soil, and that the "grandfathered in" acreage should be dealt with as part of an overall examination of the soil and water conservation effort. Both Messrs. Mitchell and Berg stated that, in their opinion, the bill was not a move toward a policy of cross-compliance.

Mr. Leon Silkman, President of the Colorado Association of Soil Conservation Districts, stated that many counties in Colorado are passing ordinances to prevent the "plow-out" of highly erodible land. He further cited studies by the Colorado State University Agricultural Research Service showing that the natural revegetation of abandoned cropland requires 25 to 50 years.

Mr. Marshall Frazier of the Colorado Cattlemen's Association spoke of the problems he encountered as a farmer and rancher when his neighbors plowed highly erodible land. He further stated that much of the grassland now being put under the plow had been previously plowed in the 1940's, had been damaged by wind erosion and, consequently, was the subject of an earlier governmental program established for the purpose of reclaiming the land as grassland. Both Messrs. Silkman and Frazier advised that, in their opinion, cross-compliance was not an objective of the bill.

COMMITTEE MARKUP

The Committee met on Wednesday, July 13, 1983, to consider S. 663. In his opening remarks, Chairman Helms explained that S.

663 would restrict a producer's access to various production incentive programs when those programs are used to bring marginal land under cultivation. The restrictions would not apply, however, when a producer cultivates the erodible land under an approved conservation system.

The Chairman emphasized that S. 663 would not interfere in any way with a producer's right to bring any land into production. However, the bill would attempt to discourage indiscriminate tilling of highly erodible land by discontinuing eligibility for certain Federal programs when this poor farming practice is used.

Senator Melcher expressed interest in clarifying the respective roles to be played by the Soil Conservation Service (SCS) and the local soil conservation districts in implementing the bill. He stated that many of the decisions to be made in implementing the bill should be made at the local level, since the local soil conservation districts are familiar with the problems and are ready to act on them. He further stated that the role of the Soil Conservation Service should be limited to publishing the technical guides for soil classification and that the SCS should not make determinations as to whether a specific conservation plan satisfied the requirements of the bill.

The Committee intends that the decision to approve or disapprove a particular conservation system should be made by the local conservation districts, rather than by the Department of Agriculture. An approved conservation system will be based on standards established by Soil Conservation Service technical guides tailored to the conditions in each local soil conservation district. The Committee emphasizes that the Soil Conservation Service's role in this process is that of publishing technical guides and providing technical assistance, and does not include dictating final approval decisions to the local conservation districts.

Senator Cochran raised the issue of the involvement of farmer-elected Agricultural Stabilization and Conservation (ASC) committeemen in the administration of the bill. The Committee agreed that ASC county committees should be used locally to insure compliance with the terms of the bill, as well as fair and equitable treatment of those persons to whom the bill will apply. An amendment to accomplish this goal was offered by Senator Cochran and was adopted by the Committee.

Senator Heflin raised the point that the production of some crops, particularly peanuts, requires that lands be rotated to the production of non-tilled crops for a period of 4 or 5 years. Senator Heflin was concerned that, under the terms of the bill, this conservation practice might inadvertently penalize a producer. The Department assured Senator Heflin that the exceptions contained in the bill cover an 11-year period, and therefore a conservation practice such as rotating land to the production of non-tilled agricultural products for a period of 4 or 5 years would not penalize such a producer.

A question arose as to whether certain crops, such as grapes, nuts, and some vegetables, are produced through annual tilling of the soil and, hence, would be included in the bill's definition of the term "agricultural commodity". Senators Heflin and Melcher indicated that the definition of the term "agricultural commodity" was

not clear in the bill language. As an example, Senator Melcher pointed out that a producer in New Mexico might plant a vineyard on highly erodible soil. The producer would then till or disturb the soil annually to control weeds. Senator Melcher noted that this is considered a good conservation practice for that type of soil and expressed his belief that such a practice should not be penalized by the bill.

At this point in the consideration of S. 663, Senator Jepsen offered an amendment to clarify the definition of the term "agricultural commodity". Senator Jepsen explained that his amendment defines that term as any commodity planted and produced by annual tilling of the soil. He further stated that it was not his intention to include perennial crops in the definition of the term "agricultural commodity", and the amendment would make clear that, to be subject to the provisions of the bill, the commodity must be both planted and produced on an annual basis. The Committee then adopted the Jepsen amendment.

The next issue discussed by the Committee was the scope of the bill's ineligibility provisions. The Committee determined that the producer will be ineligible for the various benefits listed in the bill, not just for the commodity grown on highly erodible land brought into production after the date of enactment of the bill, but also for all of that commodity produced during that crop year.

Senator Melcher informed the Committee that only 40 percent of the land in Montana has been surveyed for classification under the land capability classification system. Senator Melcher then offered an amendment to S. 663 authorizing appropriations to expedite completion of the classification of land by the Soil Conservation Service.

A question was raised as to the effect of the Congressional Budget Act of 1974 on the amendment. The Committee resolved the issue by adopting an amendment requiring the Secretary of Agriculture, as soon as practicable, to complete soil surveys on those private lands that have not been surveyed for soil capability.

Senator Melcher offered a further amendment to S. 663 requiring that the Department of Agriculture establish an appeals process under which a person could appeal the classification of land determined to be highly erodible. This amendment was adopted by the Committee.

On October 19, 1983, by unanimous voice vote, the Committee ordered S. 663 reported, as amended, with a recommendation that it pass.

Section-by-Section Analysis

Short title

Section 1 provides that the bill may be cited as the "Highly Erodible Land Conservation Act of 1983".

Definitions

Section 2 provides that, for purposes of the bill—

(1) the term "agricultural commodity" means any agricultural product planted and produced by annual tilling of the soil, including one-trip planters; and

(2) the term "highly erodible land" means land classified by the Soil Conservation Service of the Department of Agriculture as class IVe, VIe, VII, or VIII land under the land capability classification systems in effect on the date of enactment of the bill. The land capability class of a field is that class determined by the Secretary of Agriculture to be the predominant class under regulations issued by the Secretary.

Program ineligibility

Section 3 provides that, except as provided in section 4, any person who produces an agricultural commodity on highly erodible land shall be ineligible, as to any of the commodity produced by the person during that crop year, for—

(1) any type of price support, income assistance, or production adjustment payments made for the commodity by the Department of Agriculture;

(2) a Commodity Credit Corporation loan for the construction or purchase of a facility for the storage of the commodity;

(3) crop insurance for the commodity under the Federal Crop Insurance Act;

(4) a disaster payment for the commodity; or

(5) a new Farmers Home Administration loan, if the Secretary determines that the proceeds of the loan will be used for a purpose that will contribute to excessive erosion of highly erodible land.

Exceptions

Section 4 provides that the ineligibility provisions in section 3 do not apply to—

(1) any land that was cultivated by a person to produce any of the 1973 through 1983 crops of agricultural commodities;

(2) any crop of an agricultural commodity planted by a person before the date of enactment of the bill;

(3) any crop of an agricultural commodity planted by a person during any crop year beginning before the date of enactment of the bill;

(4) any loan described in section 3 made before the date of enactment of the bill; or

(5) any crop of an agricultural commodity produced using a conservation system that has been approved by a soil conservation district and that is based on technical standards set forth in the Soil Conservation Service technical guide for that soil conservation district. In areas where no soil conservation district exists, the Secretary of Agriculture is to determine the adequacy of the conservation system to be used in the production of any agricultural commodity on highly erodible land.

Administration

Section 5 provides that the Secretary shall use the Agricultural Stabilization and Conservation county committees to ensure compliance with the provisions of the bill, as well as to ensure fair and equitable treatment of those persons subject to the bill's provisions.

Appeal of land classification

Section 6 provides that the Secretary shall issue regulations establishing an appeal procedure under which a person who produces an agricultural commodity on land classified as class IVe, VIe, VII, or VIII land under the land capability classification systems used in the bill may seek review of such classification.

Completion of soil surveys

Section 7 provides that the Secretary of Agriculture shall, as soon as practicable, complete soil surveys on those private lands that do not have a soil survey suitable for use in determining the land capability class for purposes of the bill. The Secretary must, in executing this section, concentrate on those localities where significant amounts of highly erodible land are being converted to the production of agricultural commodities.

ADMINISTRATION VIEWS

On April 20, 1983, Chairman Helms received a letter from Secretary of Agriculture John R. Block expressing the Department's support for S. 663. The amendment suggested by the Department has been incorporated in the bill. The letter from the Department reads as follows:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 20, 1983.

Hon. JESSE HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in reply to your request of March 17, 1983, for comments on S. 663 a bill to "To prohibit the payment of certain agriculture incentives to persons who produce certain agricultural commodities on highly erodible land."

This Department recommends that the bill be passed with one minor amendment.

S. 663 would deny certain USDA program benefits to producers who produce an agricultural commodity on highly erodible land by annual tillage of the soil. The restriction would not apply if the commodity is produced on highly erodible land using an approved conservation system, or if the land was cultivated in any year from 1973 through 1982. The bill defines highly erodible land as Classes IVe, VIe, VII, and VIII in the Soil Conservation Service's (SCS) Land Capability Classification System.

The Department of Agriculture believes that farmers and ranchers have a right to determine what types of commodities they produce and where. This Department will not interfere with such decisions. However, it is recognized that the programs named in S. 663, while intended primarily to apply to existing cropland, may in certain instances, operate in such a way as to encourage annual tilling of highly erodible lands generally unsuited to such use. This Department does not intend for these programs to provide a tax supported incentive for farmers to use their lands unwisely. This is especially important at this time when we are strongly encouraging

farmers to join our programs to reduce production of major commodities.

S. 663 will help achieve compatibility between our conservation programs and agricultural economic policy. However, it would be administratively difficult for the Department to ensure compliance of every producer who participates in these programs. Therefore, we believe it is important that report language indicate the Department could accept certifications from producers subject to such spot check procedures as we determine necessary.

It is very difficult to estimate the cost of administering this program, primarily because we have no way of knowing how many producers would be affected. We expect that the major cost and demand on staff would be attributable to SCS. SCS would primarily be involved in providing soils information and in providing technical assistance for establishing appropriate conservation systems. These activities are already basic to the programs and mission of SCS, and we do not view implementation of this program as a cost. S. 663 would be a tool to help achieve long-term soil conservation objectives.

On December 2, 1982, the Department provided comments on Senator Armstrong's previous bill. All the amendments we suggested were adopted by Senator Armstrong. However, during preparation of the new bill, some wording from subsection (c)(2) and (c)(3) was inadvertently placed in subsection (c)(1). This changed the meaning of subsection (c)(1). Subsection (c)(1) should read "Subsection (b) shall not apply to any land which was cultivated by a person to produce any of the 1973 through 1982 crops of agricultural commodities." With this amendment we recommend enactment of the bill.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK, *Secretary.*

On August 30, 1983, Senator Walter D. Huddleston, ranking minority member of the Committee, wrote a letter to Secretary Block requesting the Department's views on S. 663, as marked up by a working quorum of the Committee. Senator Huddleston also requested that the Department state its position on "cross-compliance". Senator Huddleston's letter and the Department's reply, dated September 21, 1983, follow:

U.S. SENATE,
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, D.C., August 30, 1983.

Hon. JOHN R. BLOCK,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: Enclosed is a copy of S. 663, the "sodbuster" legislation, as marked up by a working quorum of the Committee. I would appreciate your reviewing the bill as marked up and furnishing the Committee with the administration's views on the

legislation and its effect on the administration of the Department of Agriculture's commodity programs.

In that connection, concern has been expressed that S. 663 might be viewed as a step toward Federal land use planning and the use of mandatory cross-compliance in Department of Agriculture programs. For that reason, please provide the Committee a statement of the administration's position on cross-compliance and any changes in existing policy on cross-compliance that may be under consideration. I understand that the administration would appreciate this opportunity to clarify its position on this matter.

It is likely that the Committee will complete its consideration of S. 663 soon after the Senate returns from its August recess. I would, therefore, appreciate receiving your reply as soon as possible.

Sincerely,

WALTER D. HUDDLESTON.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., September 21, 1983.

Hon. WALTER D. HUDDLESTON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HUDDLESTON: Thank you for your letter asking for our comments on S. 663, the "sodbuster" bill.

We have reviewed and agree with the various changes that were made during the markup of this legislation by the Senate Committee on Agriculture, Nutrition, and Forestry. On April 20, 1983, a legislative report was sent to the Committee which stated that the Department of Agriculture was in favor of this legislation; our position has not changed.

We do not view the provisions of S. 663 as a step toward mandatory cross compliance in Department of Agriculture programs. While the Agriculture and Food Act of 1981 authorizes the Secretary of Agriculture to impose crop cross compliance requirements with respect to certain commodity production adjustment programs, the Department has consistently maintained its position that the objectives of those programs can be accomplished without the imposition of such requirements.

Sincerely,

JOHN E. BLOCK, *Secretary.*

COST ESTIMATE

I.

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the Committee estimates that no additional cost will be incurred by the Federal Government as a result of the enactment of this legislation.

II.

The Committee's cost estimate is consistent with a cost estimate for the legislation that was prepared by the Congressional Budget

Office. The Congressional Budget Office estimate is contained in a letter transmitted to Chairman Helms that reads as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., November 1, 1983.

Hon. JESSE A. HELMS,
Chairman, Committee on Agriculture, Nutrition and Forestry U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 663, the Highly Erodible Land Conservation Act of 1983, as ordered reported by the Senate Committee on Agriculture, Nutrition and Forestry, October 19, 1983.

The bill provides that farmers who grow agricultural commodities on land that has not been farmed during the last ten years and is classified as highly erodible by the Soil Conservation Service are not eligible for federal assistance on any of that commodity that they produce. This restriction applies to Commodity Credit Corporation price support programs and storage facility loans as well as to crop insurance, disaster payments, and Farmers Home Administration loans.

The amount of land affected by this bill is likely to be relatively small. No land will be affected that has been under plow during the last ten years. The amount of other highly erodible land that might be planted in the future is impossible to project, but it is likely to be a very small proportion of total acreage. Classification and aerial surveillance of this land are part of the normal duties of the Soil Conservation Service, and it expects to administer this bill with its current personnel. Consequently, while there may be some small savings as a result of the restrictions in this bill, the budget impact is not expected to be significant.

Enactment of this bill would not affect the budgets of state and local governments.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

RUDOLPH G. PENNER, *Director.*

REGULATORY IMPACT STATEMENT

In compliance with paragraph 1(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact that would be incurred in carrying out S. 663.

IMPACT ON INDIVIDUALS AND BUSINESSES

S. 663, as reported by the Committee, is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses. The bill, however, would affect those agricultural producers participating in price support, production adjustment, Federal crop insurance, and the other farm and agricultural loan programs carried out by the Federal Government if the producer

brings highly erodible land into cultivation and does not fall into any of the exceptions outlined in the bill. Participation in these Federal farm and agricultural loan programs, however, is voluntary; therefore, it is difficult to estimate the number of producers that might be affected. Those producers located in areas of the country with high concentrations of class IVe, VIe, VII, and VIII lands would more likely be affected by the bill than producers located in other areas.

ECONOMIC IMPACT

The effect of the bill on the economy is difficult to predict for the same reason that it is difficult to estimate the number of producers who might be affected. To the extent the bill deters producers from plowing up highly erodible land, there could be a reduction in potential crop production and in the demand for production inputs.

IMPACT ON PERSONAL PRIVACY OF INDIVIDUALS

The bill will not significantly increase Government intrusion into the person privacy of agricultural program participants, although such participants will be required to disclose information on whether they are cropping highly erodible land and, if so, whether they are doing so pursuant to an approved conservation system.

The bill would increase the need for several Federal agencies, including the Soil Conservation Service, Agricultural Stabilization and Conservation Service, Farmers Home Administration, and Federal Crop Insurance Corporation, to share information relating to producer eligibility requirements. Much information sharing already occurs between these agencies. The Committee does not view the need to increase the sharing of information as an intrusion on a producer's personal privacy.

PAPERWORK IMPACT

The bill would have no substantial effect on reporting requirements and paperwork. When a producer makes application to participate in one or more of the Federal farm and agricultural loan programs, the producer will be asked to certify whether the producer intends to crop any land not cultivated during the period 1973–1983. Also, the producer may need to provide information concerning the use of an approved conservation system if new crop production is to occur on highly erodible land. These requirements will result in minimal additional paperwork.

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